



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,956	11/20/2003	William D. McKay	RBD-115-B	9034
22440 7590 01/29/2007 GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			EXAMINER SPISICH, MARK	
			ART UNIT 1744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/717,956

Applicant(s)

MCKAY, WILLIAM D.

Examiner

Mark Spisich

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8,9,13,22,23,28-30,35,50,56-58 and 75-84 is/are pending in the application.
- 4a) Of the above claim(s) 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8,9,13,22,23,28-30,35,50,56,57 and 75-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/03, 5/04, 11/04 & 11/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the embodiment of Figure 49 in the reply filed on 8 January 2007 is acknowledged. The traversal is on the ground(s) that Figures 49 and 50 are "sufficiently related". There are related to a degree; however, they are still assumed to be patentably distinct from each other. It is further noted that applicant has claims which are specifically drawn to both Figs 49 and 50. **If applicant wishes to go on record and state that the embodiments of Figures 49 and 50 are obvious variants of each other and NOT patentably distinct, then the examiner would be more that willing to examine the claims drawn to both Figs 49 and 50.**

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 58 (being drawn to the embodiment of Fig 50) is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8 January 2007.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because (1) reference characters in figures 16-18 are also used in figure 20 for a totally different device and (2) #674 identifies both the clamp surface in fig 23 and the clamp in fig 24 and also #626 in fig 24 is also the core in fig 20 and a totally different element in figure 17. Applicant should keep in mind to amend the specification according to any drawing change(s) Corrected drawing sheets in compliance with 37 CFR 1.121(d) are

Art Unit: 1744

required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

NOTE: The specification is replete with so many errors as to constitute a burden to point them all out at this time. The errors noted below only go through page 15 (of 30 pages).

1. The disclosure is objected to because of the following informalities: (1) the "brief description" on page 7 does not include a reference to Figure 53; (2) #184 (para 0069, line 5) is wrong; (3) #188 (para 0071, line 2) is wrong; (4) #356 (para 0076, line 3) is wrong; (5) #432 (para 0078, line 5) is wrong; (6) #340 (para 0080, line 4) is wrong; (7) "Fig. 18" (para 0080, line 4) is wrong; (8) #496 (para 0080, line 5 and 0081, line 2(1st)) should be #494; (9) #626 (para 0110, line 2) is wrong; and (#674 (para 0110, line 4) is wrong.

Appropriate correction is required.

Warning RE Double-Patenting

Art Unit: 1744

The claims of the present application, in particular claim 1, are SO broad as to read on and cover pretty much any cleaning device assigned to the present applicant. Doing a double-patenting rejection at this point of prosecution would be extremely burdensome, given the fact that claim 1 is SO broad and also being that applicant has so many prior applications/patents.

Claim Rejections - 35 USC § 112

2. Claims 9,13,22,23,29,30,76-78 and 79-81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Cleaning member comprises" (claim 9, line 1) should be changes to either (1) "cleaning element comprises" or (2) "cleaning members comprise". Claim 8 (from which claim 29 depends) already includes a positive recitation of the mat, thus lines 3 of claim 29 constitutes an improper double-inclusion of the same element. Applicant should review the claims for any additional informalities.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,8,9,13,22,23 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Norman (USP 6,021,542). The patent to Norman discloses a cleaning device (10) comprising a cleaning element (34,18,20), support (16) and handle (14).

Art Unit: 1744

5. Claims 1,8,9,13,22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Caristo et al (USP 5,904,150). The patent to Caristo discloses a cleaning device (10) comprising a cleaning element (14), support (16) and handle (26).

6. Claims 1 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Vian (USP 3,040,352). The patent to Vian discloses a cleaning device comprising a cleaning element (22), support (12) and handle (14).

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Smith (USP 4,469,223). The patent to Smith, with particular reference to figs 13-14, discloses a device comprising a handle (14), support (16) and bristles (15) which would very well be used to clean.

8. Claims 1,50,56,57 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilbrecht (USP 3,192,548). The patent to Wilbrecht discloses a cleaning device comprising a cleaning element (14), support (12), handle (26) and cover (20).

9. Claims 1,8,9,13,22,23 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Chern (USP 4,479,501). The patent to Chern discloses a cleaning device comprising a cleaning element (2 or 2'), support (11) and handle (1).

10. Claims 1,50,56 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Roth (USP 3,623,179). The patent to Roth discloses a cleaning device comprising a cleaning element (20), support (14,12,24), handle (10) and cover (40).

11. Claims 1,8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Roth (USP 3,800,353). The patent to Roth discloses a cleaning device comprising a cleaning element (26,28), support (10) and handle (12).

Art Unit: 1744

12. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schmitz (USP 4,642,835). The patent to Schmitz discloses a cleaning device comprising a cleaning element (12 or 13), support (11) and a handle.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 28-30 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman (USP 6,021,542) in view of Robinson (USP 5,890,255). The patent to Norman discloses the invention substantially as claimed with the exception of the sheet(s) (26) being a non-woven fabric which includes an impregnated medium. The patent to Robinson discloses a cleaning sheet (28) similar in utility to the sheets of Norman and which may be a non-woven fabric (column 6, lines 14-19) which may include an impregnated ingredient (column 5, lines 8-12). It would have been obvious to one of ordinary skill to have modified the device of Norman as such as it is an art-recognized equivalent means for cleaning debris from a brush and which would also permit the application of a treating medium.

15. Claims 82-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman (USP 6,021,542) and Robinson (USP 5,890,255) as applied to claim 35 above, and further in view of Kurdy (USP 3,964,122). The prior art discloses the invention substantially as claimed with the exception of the protective cover. The patent to Kurdy

Art Unit: 1744

discloses a protective cover (D) for placement over a cleaning implement for the purpose of protecting the cleaning portion of the device during periods of non-use. The provision of such a cover to any cleaning implement, including one such as Norman, would be obvious for the same reason stated in Kurdy.

16. Claims 76-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman (USP 6,021,542) in view of Kurdy (USP 3,964,122). It would have been obvious to have provided a protective cover as taught in Kurdy to the device of Norman for the reasons state above.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are each pertinent to implements in combination with some type of protective cover.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich
Primary Examiner
Art Unit 1744

MS